

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.887/PUN/2024  
निर्धारण वर्ष / Assessment Year: 2020-21

Textile Development Foundation, C-9/15, MIDC Akkallot Road, Solapur- 413306. PAN : AAATT1619G	Vs.	DCIT, Exemption Circle, Pune.
Appellant		Respondent

Assessee by : Shri Pramod S. Shingte  
Revenue by : Shri Arvind Desai  
Date of hearing : 09.10.2024  
Date of pronouncement : 29.11.2024

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

This appeal filed by the assessee is directed against the order dated 12.02.2024 passed by Ld. Addl./JCIT(A)-1, Jaipur for the assessment year 2020-21.

2. The appellant has raised the following grounds of appeal :-

*"1. On the facts and the circumstances of the case and in law, Learned CIT Appeal have erred in denied the exemption under section 11 by observing that form No. 10B was filed by after the filling of*

*return of income. Without realizing the fact that same was filed before processing the return under section 143(1) of Income Tax Act.*

*2. On the facts and the circumstances of the case and in law, Learned Assessing Officer erred in passing intimation under section 143(1) wherein Centralize Processing Centre (CPC) has denied the deduction of entire expenditure claimed towards object of the trust as will further erred in denying exemption under section 11 of the IT Act. your appellant prays for following the same.*

*3. On the facts and in the circumstances of the case and in law, the learned Assessing Officer erred in making the adjustment of denying the entire expenditure as well as denying exemption under section 11 of the Act. Without considering the fact that this adjustment is same is beyond the scope of provision of section 143(1) and therefore entire intimation is illegal and deserves to be quashed. Your appellant craves for to add, alter amend, modify, delete any or all ground of appeal before or during the course of hearing.*

*Your appellant craves for to add, alter, amend, modify, delete all above or any grounds of appeal before or during the course of hearing in the interest of natural justice.”*

2. Facts of the case, in brief, are that the assessee is a trust registered u/s 12A of the IT Act. The return of income & audit report in Form 10B was filed on 26.12.2020 by declaring income at Rs. Nil after claiming exemption u/s 11/12 of the IT Act. The above return was processed by Central Processing Centre (CPC) and intimation u/s 143(1) dated 30.11.2021 was sent to the assessee. In this intimation, the CPC has considered the entire gross receipt of Rs.1,19,82,645/- as income of the appellant, whereby it has disallowed all the expenses claimed as well as, denied the exemption u/s 11 of the IT Act.

4. In first appeal, after considering the reply of the assessee Ld. Addl./JCIT(A)-1, Jaipur dismissed the appeal of the assessee by observing as under :-

*“6.1.9 In order to get entitlement for claiming exemption of its income u/s 11 of the Act, it is mandatory on the part of the appellant to file the Form No.10B in due time or get a condonation of delay in filing the Form 10B from the CIT (Exemptions).*

*Keeping in view of the above, I am of the opinion that the AO has rightly denied the allowing exemption of Rs.1,19,82,645/- to the appellant. Therefore, these grounds of appeal are dismissed.”*

5. It is this order against which the assessee is in appeal before this Tribunal.

6. Ld. AR appearing from the side of the assessee submitted before the Bench that there is a delay of 15 days in filing of this appeal. Ld. AR furnished an affidavit explaining the reasons of delay in filing of this appeal. We are satisfied with the reasons mentioned in the application for condonation of delay which is duly supported by an affidavit. Ld. DR raised no serious objection against the delay condonation request made by the assessee. Accordingly, the delay of 15 days in filing of this appeal is condoned and the appeal is admitted for adjudication.

7. Ld. AR submitted before the Bench that the assessment year involved in this appeal is assessment year 2020-21 and CBDT due to Covid Pandemic has extended the date of filing of income tax return. Ld. Counsel of the assessee submitted that the books of accounts were duly audited and the audit report in Form 10B was also obtained by the assessee. The return of income was filed on 26.12.2020 on income tax portal. The audit report in Form 10B was also uploaded on income tax portal on the same date i.e. on 26.12.2020. He produced the e-acknowledgement for the same before the Bench. Ld. AR further submitted that although the income tax return and audit report in Form 10B was filed on 26.12.2020 but the same was e-verified on 14.06.2021. Copy of ITR-V was also filed before the Bench in paper book. It was submitted that the above return was processed on 30.11.2021 by CPC and the intimation u/s 143(1) clearly shows the date of filing of the return as 26.12.2020, & the extended date for filing of return as 10.01.2021 and at the same time it also shows that no forms filed. The above intimation is enclosed at page no.23 to 24 of the paper book filed by the assessee. It is the contention of Ld. AR of

the assessee that the CPC has denied the exemption u/s 11 due to the fact that the audit report in Form 10B was not filed along with return of income. Ld. AR further contended that the audit report in Form 10B was also filed on 26.12.2020 which is evident from the copy of e-acknowledgement furnished before the Bench. Accordingly, it was requested by Ld. Counsel of the assessee before the Bench that the CPC erred in disallowing the exemption claimed by the assessee u/s 11 of the IT Act on the basis of a wrong fact i.e. non-filing of audit report in Form 10B along with the return of income. Alternatively, it was also submitted that even otherwise also, all the expenses claimed by the assessee were required to be allowed by the CPC. On the basis of above facts and circumstances, Ld. AR requested before the Bench that the CPC as well as Ld. Addl./JCIT(A)-1, Jaipur both erred in disallowing the claim of the assessee made u/s 11/12 of the IT Act and alternatively expenses claimed by the assessee should have been allowed.

8. Ld. DR appearing from the side of the Revenue relied on the orders passed by the subordinate authorities and requested to confirm the same.

9. We have heard Ld. Counsels from both the sides and perused the material available on record including the paper book and other documents furnished by the assessee. We find that in this appeal the solitary ground for our consideration is that whether the CPC and Ld. Addl./JCIT(A)-1, Jaipur were justified in disallowing the claim made by the assessee u/s 11/12 on the basis of non-filing of audit report in Form 10B along with return of income. In this regard, we find that due to Covid Pandemic the extended date for filing of non-audit return was 10<sup>th</sup> of January, 2021 and for audit returns the extended date was 15<sup>th</sup> February, 2021. We further find that in the instant case a perusal of the intimation issued by CPC makes it clear that the return was filed as a non-audit return since the extended date was mentioned as 10<sup>th</sup> of January, 2021. This fact clearly shows that the assessee itself committed mistake in filing under the category of non-audit return whereas the same was required to be filed under the category of audited return.

Accordingly, we find that the CPC has not committed any error in disallowing the claim of the assessee regarding exemption u/s 11 & 12 of the IT Act in the absence of non-mention of audit report in the said return.

10. However, at the same time we also find that the extended date for filing of audited return was 15<sup>th</sup> February, 2021 and admittedly the books of accounts of the assessee trust were audited and specified audit report in Form 10B was also obtained and the same audit report was filed through e-portal on 26.12.2020 i.e. on the same date on which income tax return was also uploaded. It is worthwhile to mention here that to claim the benefit of exemption u/s 11 & 12 the assessee was required as per section 12(1)(b)(ii) to furnish the audit report before the specified date referred to in section 44AB of the IT Act. As per section 44AB, Explanation (ii), the specified date means date of one month prior to the due date for furnishing the return of income under sub-section (1) of section 139 of the IT Act. Accordingly, for the period under consideration i.e. for assessment year 2020-21, since CBDT has already extended the due date for furnishing audit return to 15<sup>th</sup>

February, 2021, the assessee was required to file its audit report prior to one month of this extended date. Admittedly, in the instant case the audit report in Form 10B was filed by the assessee through e-portal on 26.12.2020. Hence the audit report in Form 10B was filed prior to one month of the due date for furnishing the return of income under sub-section (1) of section 139 of the IT Act i.e. 15<sup>th</sup> February, 2021 in the instant case. Although the assessee failed to reflect the fact of filing audit report in its return of income, we are of the considered opinion that this being a technical error inadvertently committed by the assessee needs to be pardoned. Considering the totality of the facts of the case, we are of the considered opinion that since the audit report in Form 10B was furnished by the assessee prior to one month of the due date for furnishing the return of income, therefore, the compliance of section 12(1)(b)(ii) r.w.s. 44AB, Explanation (ii) was very well made by the assessee and accordingly the order passed by Ld. Addl./JCIT(A)-1, Jaipur in our opinion is not justified. Accordingly, we set-aside the order passed by Ld. Addl./JCIT(A)-1, Jaipur and allow the claim of exemption u/s 11 & 12 of the IT

Act by the assessee in the light of the fact discussed in foregoing paragraphs that audit report for the period under consideration in Form 10B was filed prior to one month of the extended due date of filing return of income. Thus, the grounds of appeal raised by the assessee are allowed

11. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this 29<sup>th</sup> day of November, 2024.

Sd/-  
**(R. K. PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 29<sup>th</sup> November, 2024.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Addl./JCIT(A)-1, Jaipur.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.